

DEFENSE

Cooperation

**Memorandum of Understanding Between the
UNITED STATES OF AMERICA
and the UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND**

Signed at Washington and Bristol February 26
and July 7, 1998

with

Annexes



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

**UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND**

Defense: Cooperation

*Memorandum of understanding signed at Washington
and Bristol February 26 and July 7, 1998;
Entered into force July 7, 1998.
With annexes.*

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE SECRETARY OF DEFENSE ON BEHALF OF THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA
AND THE
SECRETARY OF STATE FOR DEFENCE
OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
CONCERNING
COOPERATION IN THE DEVELOPMENT, PRODUCTION AND FOLLOW ON SUPPORT
OF AN
ARMORED SCOUT AND RECONNAISSANCE VEHICLE SYSTEM
(SHORT TITLE: ASRV MOU)

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INTRODUCTION

The Secretary of Defense on behalf of the Department of Defense of the United States of America and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, hereinafter referred to as the "Participants":

Recognizing the Agreement Concerning Defense Cooperation Arrangements of 27 May 1993 between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland applies to this MOU;

Recognizing the Memorandum of Understanding between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Relating to Principles Governing Cooperation in Research and Development, Production, Procurement and Logistics Support of Defense Equipment dated 13 December 1994 or any successor thereto applies to this MOU;

Having a common interest in defense;

Recognizing the benefits to be obtained from standardization, rationalization, and interoperability of military equipments;

Desiring to improve their mutual conventional defense capabilities through the application of emerging technology;

Having a mutual need for an armored reconnaissance vehicle to satisfy commonly determined operational requirements;

Having independently conducted studies of the applications of various technologies;

Having exchanged information for the purposes of requirements harmonization and contract documentation preparation, recognize the benefits of cooperation in this Program; and

Recognizing that confirmation of commitment to phases after the PD/ATD phase will be subject to national approval;

Have decided to carry out in cooperation the development, production, and follow on support of an Armored Scout and Reconnaissance Vehicle (ASRV) to cover their common needs; and

Have reached the following understandings:

SECTION I
DEFINITIONS

The Participants have jointly decided upon the following definitions for terms used in this Memorandum of Understanding (MOU):

Advanced Technology Demonstrator (ATD)	That portion of the acquisition process during which designs are developed through trade-off analyses, appropriate risk reduction activity and demonstration, for evaluation prior to entry into EMD/FD.
Classified Information	Official information that requires protection in the interests of national security and is so designated by the application of a security classification marking.
Contract	Any mutually binding legal relationship which obligates a Contractor to furnish supplies or services, and obligates one or both of the Participants to pay for them.
Contracting	The obtaining of supplies or services by Contract from sources outside the government organizations of the Participants. Contracting includes description of supplies and services required, solicitation and selection of sources, preparation and award of Contracts, and all phases of Contract administration.
Contracting Agency	The entity within the government organization of a Participant, which has authority to enter into, administer, and/or terminate Contracts on behalf of the Participants.
Contracting Officer	A person representing a Contracting Agency of a Participant who has the authority to enter into, administer, and/or terminate Contracts.
Contractor	Any entity awarded a Contract by a Participant's Contracting Agency.
Controlled Unclassified Information	Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the information is provided or generated under this MOU, the information will be marked to identify its "in confidence" nature. It could include information which has been declassified, but remains controlled.
Defense Purposes	Manufacture or other use in any part of the world by or for the armed forces of the Participants, to include the sale or transfer to Third Parties to the extent that they have the right to do so.
Designated Security Authority (DSA)	The security office approved by national authorities to be responsible for the security aspects of this MOU.
Engineering and Manufacturing Development (EMD)	That portion of the acquisition process in which the following activities are completed: Maturing and finalizing of the selected design; validation of the manufacturing and production processes; test and evaluation of the system.

EMD/FD/Production Computer Software	Computer programs and computer database configuration items that operate computers in the ASRV Program weapon system.
EMD/FD/Production Computer Software Documentation	Program information, including computer source code listing and printouts, in human readable form which documents the design or details of EMD/FD/Production Computer Software, explains the capabilities of the software, or provides operating instructions for using the software to obtain the desired results from a computer.
Financial Costs	Any Program costs that, due to their nature, will be paid using monetary contributions from the Participants.
Firm Price	An agreed price which is not subject to variation.
Full Development (FD)	The British counterpart of EMD in the acquisition process.
Non-financial Costs	Any Program costs that, due to their nature, will be met using non-monetary contributions from the Participants.
Patent	Legal protection of the right to exclude others from making, using, or selling an invention. The term refers to any and all patents including, but not limited to, patents of implementation, improvement, or addition, petty patents, utility models, appearance design patents, registered designs, and inventor certificates or like statutory protection as well as divisions, reissues, continuations, renewals, and extensions of any of these.
Program	The ASRV Project Definition (PD)/Advanced Technology Demonstrator (ATD), Engineering and Manufacturing Development (EMD)/Full Development (FD), Production and Follow on Support phases.
Program Equipment	Any material, equipment, end item, subsystem, component, special tooling or test equipment jointly acquired or provided for use in the Program.
Program Background Information	Program Information not generated in the performance of the Program.
Program Foreground Information	Program Information generated in the performance of the Program.
Program Information	Any information provided to, generated in, or used in this Program regardless of form or type, including, but not limited to, that of a scientific, technical, business, or financial nature, and also including photographs, reports, manuals, threat data, experimental data, test data, designs, computer software, specifications, processes, techniques, inventions, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations, whether in magnetic tape, computer memory, or any other form and whether or not subject to copyright, Patent, or other legal protection.

Program Invention	Any invention or discovery formulated or made (conceived or first actually reduced to practice) in the course of work performed under the Program. The term "first actually reduced to practice" means the first demonstration, sufficient to establish to one skilled in the art to which the invention pertains, of the operability of an invention for its intended purpose and in its intended environment.
Program Plan	A plan that provides a description of the Program's delivery requirements and milestones and lists information provided by one Participant to the other in connection with the Program prior to entry into effect of the MOU.
Project Definition (PD)	The British counterpart of Advanced Technology Demonstrator in the acquisition process.
Third Party	A government other than the governments of the Participants and any person or other entity whose government is not the government of a Participant. For purposes of this definition in this MOU, a contractor or subcontractor incorporated outside of the United Kingdom or the United States is a Third Party.

SECTION II

OBJECTIVES

2.1. The objectives of this Program are:

- 2.1.1. To design, develop, test, produce and deliver to the Participants and undertake follow on support for an ASRV system that meets the mutually determined Operational Requirement (as reflected in the Common Operational Requirement Document endorsed by the Steering Committee) by using state of the art surveillance/target acquisition, lethality, communications, mobility, and survivability technologies.**
- 2.1.2. To minimize development and production time and costs in achieving initial operational capability for both Participants.**
- 2.1.3. To achieve interoperability and to reduce costs by maintaining a common configuration of the ASRV system to the maximum extent possible.**

2.2. The Program will consist of four phases - Project Definition (PD)/Advanced Technology Demonstrator (ATD), Engineering and Manufacturing Development (EMD)/Full Development (FD), Production and Follow on Support.

2.3. While the provisions of this MOU apply to all phases of this Program, confirmation of a Participants's participation in each phase subsequent to the PD/ATD phase will be subject to applicable national approvals.

2.4. Prior to the commencement of each phase, the JPO will revise Annex A (Program Plan) and Annex B (Financial Matters) for the Participants. The revision will include the details of the work to be accomplished and the associated work schedule for that phase, detailed costing of the work to be accomplished, together with a preliminary financial contributions schedule and an estimated maximum cost for that phase, and an outline cost for all subsequent phases.

SECTION III
SCOPE OF WORK

- 3.1. The overall work to be performed under this MOU includes:
 - 3.1.1. Design, development, production, and follow on support of an ASRV system.
 - 3.1.2. Conduct tests and evaluations at various US and/or UK test facilities.
 - 3.1.3. Development of a plan for cost-effective logistic support in each country.
 - 3.1.4. Production and delivery of ASRV systems to reflect the requirements of the Participants.
 - 3.1.5. Setting in place procedures for and performance of in-service through life support for the ASRV system.
- 3.2. The PD/ATD phase will include the following specific tasks:
 - 3.2.1. Preparation of joint vehicle specifications and requirements documents to enable the Participants to evaluate proposals.
 - 3.2.2. Preparation of the procurement documents including the statement of work, specifications and source selection criteria.
 - 3.2.3. Evaluation of data previously developed under each Participant's domestic programs and supporting technology programs for possible implementation into the Program.
 - 3.2.4. Definition of the hardware, software subsystems and components to be used in the Program to include, but not limited to, sensors, survivability, communications, mobility, and lethality.
 - 3.2.5. Joint preparation of the source selection strategy and the test and evaluation strategy for the ASRV prior to issue of the Invitation to Tender (ITT) for the PD/ATD phase.
 - 3.2.6. Issue of an ITT to competing industrial consortia and the awarding of two contracts for the PD/ATD phase.
 - 3.2.7. Fabrication and testing of integrated vehicle level demonstrators to validate the design approach in areas of high development risk.
 - 3.2.8. Development of computer software to be delivered under the ASRV PD/ATD Program.
 - 3.2.9. Demonstration of vehicle integration in sufficient detail to reduce (minimize) risk for entry into EMD/FD. This will include virtual prototypes, simulations, component testing, systems integration laboratory testing, test rigs, and integrated vehicle level demonstrator testing consisting of technical testing and user evaluation.
 - 3.2.10. Preparation of detailed EMD/FD specifications, requirements, and other information to enable the development of an ASRV.
 - 3.2.11. Development of a plan for cost-effective logistic support.
 - 3.2.12. Obtaining proposals for a complete EMD/FD phase which may include initial production.

- 3.2.13. Joint evaluation of the proposals referred to in 3.1.12 above and reaching a conclusion on this evaluation. The Participants anticipate a single EMD/FD contract will be let.
- 3.2.14. A Program Plan summarizing the scope of work to be carried out during the PD/ATD phase is attached at Annex A.
- 3.3. The EMD/FD phase will include the following specific tasks:
 - 3.3.1. Revision of Annex A (Program Plan).
 - 3.3.2. Award of a single Contract for EMD/FD.
 - 3.3.3. Design, development, and fabrication of prototype ASRV systems.
 - 3.3.4. Conducting of testing and evaluation of the prototypes.
 - 3.3.5. Preparation of a Technical Data Package.
 - 3.3.6. Update of the plans for cost-effective logistic support.
 - 3.3.7. Development of preliminary production plans that address transition from EMD/FD to Production.
 - 3.3.8. Commencement of low rate initial production.
 - 3.3.9. Obtaining proposals for Production.
- 3.4. The Production phase will include the following specific tasks:
 - 3.4.1. Revision of Annex A (Program Plan).
 - 3.4.2. Production and delivery of ASRV systems to meet Participant requirements.
 - 3.4.3. Monitoring of production and quality control.
 - 3.4.4. Finalizing the plans for cost-effective logistic support.
 - 3.4.5. Finalizing plans/proposals for cost effective Follow on Support
- 3.5. The Follow-on Support Phase will include the following specific tasks:
 - 3.5.1. Revision of Annex A (Program Plan).
 - 3.5.2. Maintaining configuration control of the ASRV systems.
 - 3.5.3. Establishing the procedures for and performance of in-service through life support for the ASRV system.
 - 3.5.4. Addressing the potential for joint integrated logistics support and jointly funded major system redesign and improvement. Where cooperative in-service activity is approved, appropriate arrangements will be made in supplements to this MOU.
- 3.6. Design, development, and procurement of any unique components required for a national system variant of the ASRV will only be undertaken pursuant to Sections 5.4.3, 5.4.4 and 6.9.2 of this MOU.

3.7. The scope of the Program includes development of all computer software to be delivered under the Program and required for operation, test, and logistics support. Additional responsibilities regarding computer software, software documentation, and software support are established in Annex D (Software) of this MOU.

SECTION IV

MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)

4.1. This Program will be directed and administered on behalf of the Participants by an organization consisting of a Steering Committee (SC), and a Joint Program Office (JPO) headed by a Program Manager (PM). The SC will have overall authority over the JPO in accordance with this MOU. The JPO will have primary responsibility for effective implementation, efficient management, and direction of the Program in accordance with this MOU.

4.2. The SC will consist of a representative appointed by each Participant. The SC will meet as frequently as it deems necessary to provide effective direction for the Program but at least once a year. Each meeting of the SC will be chaired by the representative of the Participant hosting the meeting. Decisions of the SC will be made unanimously. In the event the SC is unable to reach a timely decision on an issue, each SC representative will refer the issue to its higher authority for resolution. Upon such referral, the SC will provide guidance to the JPO concerning interim execution of the Program.

4.3. The SC will be responsible for:

- 4.3.1. Exercising executive-level policy and management direction to the JPO during the course of Program implementation.
- 4.3.2. Monitoring overall Program implementation, including Program execution, specifications, and milestones.
- 4.3.3. Reviewing the technical progress of the Program against Annex A (Program Plan).
- 4.3.4. Monitoring the financial status of the Program to ensure compliance with the provisions of Section V (Financial Provisions) and Annex B (Financial Matters) of this MOU.
- 4.3.5. Resolving issues brought forth by the JPO.
- 4.3.6. Approving changes to the Contract Financial Contribution Schedule as described in Annex B (Financial Matters).
- 4.3.7. Reviewing and forwarding to the Participants for approval recommended amendments to this MOU in accordance with Section XVIII (Amendment, Termination, Entry Into Effect, and Duration).
- 4.3.8. Approving amendments to Annex A (Program Plan), Annex B (Financial Matters), and Annex D (Software) of this MOU consistent with Section XVIII (Amendment, Termination, Entry Into Effect, and Duration) providing such revisions are consistent with Section II (Objectives) and Section V (Financial Provisions).
- 4.3.9. Approving plans to manage and control the transfer of Program Equipment provided by either Participant to support the execution of the Program in accordance with Section VIII (Program Equipment).
- 4.3.10. Approving plans for the disposal of jointly acquired Program Equipment under this MOU in accordance with Section VIII (Program Equipment).
- 4.3.11. Maintaining oversight of the security aspects of the Program.

4.3.12. Providing recommendations to the Participants for the addition of new Participants in accordance with Section XV (Participation of Additional Nations).

4.3.13. Monitoring Third Party sales and transfers authorized in accordance with Section XIII (Third Party Sales and Transfers).

4.3.14. Approving periodic status reports submitted by the JPO.

4.3.15. Approving the annual inventory and reviewing the report submitted by the JPO.

4.4. A JPO and a Program Managers Support Office (PMSO) will be established to manage the Program. For the PD/ATD phase of this Program, the JPO will be established in Bristol, UK and the PMSO in Warren, Michigan. The Participants will mutually determine the location of the JPO and PMSO prior to proceeding into each subsequent phase. The SC will appoint both the Program Manager (PM) and the Deputy Program Manager (DPM). The PM and DPM, who will be responsible for implementing this MOU and for the day-to-day management of the Program, will arrive at a consensus before taking action on Program cost, technical, schedule, and performance matters. Each Participant will provide personnel to assist in Program management. Office space and administrative support, in accordance with the host's normal practices, will be provided for Participants' representatives by the respective host Participant. All Participants' representatives will be subject to the normal procedures and regulations of their host Program office. Provisions for the personnel provided are described in Annex C (ASRV Program Personnel).

4.5. The JPO will be responsible for:

4.5.1. Managing the cost, schedule, performance requirements, technical, contractual and financial aspects of the Program described in this MOU.

4.5.2. Executing the approved Annex A (Program Plan).

4.5.3. Developing and submitting the required changes to the approved Annex A (Program Plan) and Annex B (Financial Matters) of this MOU to the SC for approval in accordance with Section II (Objectives).

4.5.4. Executing the financial aspects of the Program in accordance with Section V (Financial Provisions) and Annex B (Financial Matters) of this MOU.

4.5.5. Referring issues to the SC that cannot be resolved within the JPO.

4.5.6. Developing and recommending amendments to this MOU and its Annexes to the SC.

4.5.7. Developing and implementing SC approved plans to manage and control the transfer of Program Equipment provided by either Participant in accordance with Section VIII (Program Equipment).

4.5.8. Developing and implementing SC approved plans for the disposal of jointly acquired Program Equipment under this MOU in accordance with Section VIII (Program Equipment).

4.5.9. Implementing for the Program the Program Security Instruction and Classification Guide.

4.5.10. Developing and submitting any required revisions to the Program Security Instruction and Classification Guide to the DSAs for approval.

4.5.11. Forwarding recommendations to the SC for the addition of new Participants in accordance with Section XV (Participation of Additional Nations).

- 4.5.12. Providing periodic status reports to the SC, and other such reports as directed by the SC.
- 4.5.13. Keeping an inventory of all Program Background Information and Program Foreground Information exchanged between the Participants, including that passed onto their Contractors and submitting a report annually to the SC for approval.
- 4.5.14. Developing a software management plan in accordance with Annex D (Software).

SECTION V

FINANCIAL PROVISIONS

5.1. The Participants will use their best efforts to perform, or to have performed, the work specified in Section III (Scope of Work) and fulfill all the responsibilities under this MOU. The Participants estimate that the performance of the responsibilities for the PD/ATD and EMD/FD phases of this MOU will not cost more than UK Pounds Sterling 617 Million (Sept 1997 economic conditions), (U.S. Dollars 987 Million (FY 98 constant Dollars)). Subject to the provisions of Section 2.3, prior to proceeding together into the Production and Follow on Support phases of this MOU, the Participants will amend this MOU and Annex B (Financial Matters) to establish the maximum costs for the Production and Follow on Support phases. The estimated cost ceiling for the PD/ATD phase is UK Pounds Sterling 194 Million (Sept 1997 economic conditions), (U.S. Dollars 310 Million (FY 98 constant Dollars)) and for the EMD/FD phase is UK Pounds Sterling 423 Million (Sept 1997 economic conditions), (US Dollars 677 Million (FY 98 constant Dollars)). The estimated cost ceilings may be changed only upon the written consent of the Participants. The maximum costs for the Production and Follow on Support phases will be based on design proposals, production quantities, support concepts, number of ASRV vehicles in each Participant's inventory and other factors as appropriate. The financial details are contained in Annex B (Financial Matters).

If at any time the JPO has reason to believe that the total cost of the Program will be exceeded, the JPO will promptly notify the SC and will set forth a new estimate of the total cost of the Program together with supporting documentation. The SC will advise the JPO as to what action should be taken.

5.2. The costs of Program development will be shared equally during the PD/ATD phase of the Program. The costs of the EMD/FD phase of Program development will also be shared equally, subject to national approval. If national approvals for the cost sharing of the EMD/FD phase are not achieved, the Participants will amend the MOU in accordance with Section XVIII (Amendment, Termination, Entry into Effect, and Duration) before proceeding together into the EMD/FD phase. Cost sharing for the Production phase will be determined during EMD/FD and the MOU will be amended accordingly.

5.3. The following costs will be jointly funded by the Participants:

- 5.3.1. Costs related to design, development, fabrication, testing, and production to include Contract costs.
- 5.3.2. Costs associated with the use of national testing facilities or equipment where these are not included in Contracts. The Participants will endeavor to achieve an equitable distribution of the use of national facilities based on cost effectiveness and technical capability.

5.4. The following costs will be borne entirely by the Participant incurring the costs or on whose behalf the costs are incurred:

- 5.4.1. Costs associated with national representation at meetings by non JPO members.
- 5.4.2. Costs associated with each Participant's personnel and travel in support of this MOU.
- 5.4.3. Costs associated with the design, development and production of any unique components or national system variants identified by a Participant.
- 5.4.4. Costs associated with country specific national testing requirements.
- 5.4.5. Each Participant will finance the administrative and management costs of its respective Program office. The receiving Participant will be responsible for any travel and subsistence costs of personnel of the other Participant in connection with the performance of any duty carried out pursuant to a requirement of the receiving Participant. The sending

Participant will be responsible for financing any personnel it sends to the other Participant's Program office, including all pay and allowances and travel to and from the country of the receiving Participant.

5.4.6. Any other costs not expressly stated as shared costs or any costs that are outside the Scope of this MOU.

5.5. The Participants' specific Program financial contributions are specified in Annex B (Financial Matters).

5.6. Each Participant will contribute its equitable share of the full Financial Costs and Non-financial Costs of the Program, including overhead costs, administrative costs, and costs of claims, and will receive an equitable share of the results of the Program.

5.7. The financial management procedures, which must accord with the national accounting and audit requirements of the Participants, are detailed in Annex B (Financial Matters).

5.8. A Participant will promptly notify the other Participant if available funds are not adequate to fulfill its responsibilities under this MOU. If a Participant notifies the other Participant that it is terminating or reducing its funding for this Program, both Participants will immediately consult with a view toward continuation on a modified basis including the continuation of any Contracts by a single Participant. In the event that an understanding to continue on a modified basis cannot be reached by the Participants, the Participant having terminated or reduced its funding will be deemed to have terminated this MOU and the provisions of Section XVIII (Amendment, Termination, Entry into Effect, and Duration) will apply.

5.9. The Participant hosting the JPO or contracting on behalf of the other Participant will be responsible for the internal audit of the procurement activities for which it is responsible under the Program in accordance with national practices. The Participant hosting the JPO or contracting on behalf of the other Participant will also be responsible for the internal audit regarding administration of the other Participant's Program funds in accordance with its national practices. Any audit reports of such funds will be promptly made available by the Participant hosting the JPO or contracting on behalf of the other Participant to the other Participant. External audit will be undertaken by the appropriate audit institution of the Participant hosting the JPO, or contracting on behalf of the other Participant. Any external audit reports will also be made available to the other Participant.

SECTION VI

CONTRACTING PROVISIONS

- 6.1. The United Kingdom Ministry of Defence will Contract for work and services on behalf of the Participants in accordance with its national Contracting laws, regulations and procedures. The United States Department of Defense will Contract for work and services on behalf of the Participants in accordance with its national Contracting laws, regulations and procedures. The Contracting Officer will be the exclusive source for providing contractual direction and instructions to Contractors.
- 6.2. The United Kingdom Ministry of Defence will be the Contracting Agency for the PD/ATD phase of this Program. Prior to proceeding with each subsequent phase, the Participants will mutually determine the Contracting Agency for that phase.
- 6.3. Sources from the industries of both Participants' countries will be allowed to compete on an equal basis for Contracts placed under this MOU.
- 6.4. Firm prices will be sought for the PD/ATD phase of the Program. Pricing arrangements for the EMD/FD phase will be determined during the PD/ATD phase with the goal of Firm prices.
- 6.5. As part of the tender/proposal procedures, bidders for Contracts will be requested to state the proportion of work that would be placed in each Participating nation if their bid is successful and the rationale behind their proposed allocation, bearing in mind the need to secure best value for money as the optimum combination of life cycle costs, high technical merit and quality to meet the requirements of both Participants.
- 6.6. Both Participants' requirements (technical and delivery) will be fully reflected within the tender/proposal documentation and source selection will be dependent on the Contractor's ability to satisfy these requirements.
- 6.7. The JPO will be responsible for the coordination of activities relating to the Program, and will cooperate with the Contracting Officer in the areas of Contract procedures, Contract negotiation, and Contract award. The PM and DPM will review ITTs/Request for Proposals (RFP) prior to the release to ensure that they are in accordance with this MOU. In addition, the Contracting Officer will keep the PM and DPM advised of all financial arrangements with the Contractors. The UK will lead in the preparation of the ITT for the PD/ATD Phase of this MOU.
- 6.8. The Source Selection Authority (SSA), consisting of a member from each Participant, will select the Contractors for the PD/ATD phase. The SSA will be supported by a Source Selection Evaluation Board (SSEB), which will be located at the PMSO and, at the discretion of the SSA, a Source Selection Advisory Committee (SSAC). The SSEB will evaluate the proposals on the basis of the evaluation factors detailed in the jointly approved Source Selection Plan (SSP). The US will lead the SSEB for the PD/ATD phase; however both Participants will have an equal voice on the SSEB, SSAC, and SSA. All decisions will be unanimous and subject to national approval. There will be no disclosure of the decision by either Participant prior to both Participants having gained national approval to announce the decision of the SSA. Potential contractors will receive initial information regarding the source selection process in the ITT/RFP. In the event that there are only two offers, the SSA will direct an evaluation to ensure compliance with requirements and acceptability and reasonableness of price and terms. The Participants will mutually determine the source selection procedures prior to proceeding with each subsequent phase.

6.9. The Contracting Officer will insert into prospective Contracts (and require its Contractors to insert in subcontracts) suitable provisions to satisfy the requirements of this MOU including, Section IX (Disclosure and Use of Program Information), Section X (Controlled Unclassified Information), Section XII (Security) and Section XIII (Third Party Sales and Transfers) and the Program Security Instruction and Classification Guide. The Contracting Officer will negotiate to obtain the rights to use and disclose Program Information required by Section IX (Disclosure and Use of Program Information). During the Contracting process, the Contracting Officer will advise prospective Contractors of their responsibility to immediately notify the Contracting Agency, before Contract award, if they are subject to any license or agreement that will restrict their freedom to disclose information or permit its use. The Contracting Officer will also advise prospective Contractors to employ their best efforts/reasonable endeavors not to enter into any new agreement or arrangement that will result in restrictions. The Contracting Officer will:

6.9.1. Require from the bidders, as part of their tenders, a list of potential sub-contractors

6.9.2. Insert into prospective Contracts any requirements a Participant may have for unique components or national system variants.

6.10. In the event the Contracting Officer is unable to secure adequate rights to disclose and use Program Information as required by Section IX (Disclosure and Use of Program Information), or is notified by Contractors or potential Contractors of any restrictions of the rights to disclose and use such information, or of any charge which may be payable to the Contractors in order to acquire those rights, the matter will be brought to the JPO's immediate attention, and if necessary, referred to the SC for resolution.

6.11. The Contracting Officer will immediately advise the JPO of any cost growth, schedule change, or performance problems of any Contractor. If the problem(s) encountered are of sufficient magnitude to negatively affect Program cost, schedule, or performance as described in this MOU, the JPO will immediately advise the SC of the situation and the JPO's recommended course(s) of action to resolve the problem(s).

6.12. Normal contract administrative services support will be provided, in accordance with the Memorandum of Understanding between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Relating to the Principles Governing Cooperation in Research and Development, Production, Procurement, and Logistics Support of Defence Equipment, dated 13 December 1994 or any successor thereto.

SECTION VII
WORK SHARING

7.1. No requirement will be imposed by either Participant for work sharing or other industrial or commercial compensation in connection with this MOU that is not in accordance with this MOU.

7.2. The goal of the Participants is that there should be an equitable work share for the Program, although no specific work share will be demanded. The Participants will consider any work sharing arrangements which represent value for money resulting from a reduced overall Program cost, a product of a higher technical merit or a combination of both.

SECTION VIII
PROGRAM EQUIPMENT

8.1. Each Participant may provide Program Equipment identified as being necessary for executing this MOU to the other Participant. All Program Equipment that is transferred will be used by the receiving Participant only for the purposes of this MOU. Program Equipment will remain the property of the providing Participant. A list of all Program Equipment provided by one Participant to the other Participant will be developed and maintained by the JPO and approved by the SC in accordance with Section IV (Management (Organization and Responsibility)). Possession of the Program Equipment will pass at the point to be specified in the Program Plan to be developed in accordance with Section IV (Management [Organization and Responsibility]). Program Equipment transferred to one Participant under this MOU will be returned to the providing Participant prior to the termination or expiration of this MOU, unless otherwise decided by the providing Participant.

8.2. Any Program Equipment which is jointly acquired on behalf of both Participants for use under this MOU will be disposed of during the Program or when the Program ceases, as jointly decided upon by the SC.

8.3. Disposal of jointly acquired equipment may include a transfer of the interest of one Participant in such Program Equipment to the other Participant, or the sale of such equipment to a Third Party in accordance with Section XIII (Third Party Sales and Transfers) of this MOU. The Participants will share the consideration from jointly acquired Program Equipment transferred or sold to a Third Party in the same ratio as costs are shared under this MOU.

SECTION IX

DISCLOSURE AND USE OF PROGRAM INFORMATION

9.1. General

Both Participants recognize that successful collaboration depends on full and prompt exchange of information necessary for carrying out this Program. The Participants intend to acquire sufficient Program Information and rights to use such information to enable the development, production and follow on support of an ASRV system. The nature and amount of Program Information to be acquired and shared between the Participants will be consistent with the objectives stated in Section II (Objectives) and Section III (Scope of Work).

9.2. All information relevant to the Program and provided by one Participant to the other Participant prior to entry into effect of the MOU will be treated as Program Background Information. This Background Information will be listed in Annex A (Program Plan).

9.3. Government Program Foreground Information

9.3.1. Disclosure: Program Foreground Information generated by a Participant's military or civilian employees in the performance of the Program will be disclosed without charge to both Participants.

9.3.2. Use: Each Participant may use or have used on its behalf all Government Program Foreground Information without charge for Defense Purposes. The Participant generating Government Program Foreground Information will also retain its rights of use thereto. Additionally, to the extent that the Government Program Foreground Information has been generated solely by the originating Participant or its Contractor(s), that is not using any Program Background Information or Program Foreground Information provided by the other Participant, the originating Participant may use Government Program Foreground Information in any way whatsoever. If a Participant intends to use any Government Program Foreground Information in a sale or other transfer to a Third Party, however, the provisions of Section XIII (Third Party Sales and Transfers) of this MOU will also apply.

9.4. Government Program Background Information

9.4.1. Disclosure: Each Participant, upon request, will disclose to the other Participant any relevant Government Program Background Information generated by its military or civilian employees outside the scope of this MOU, provided that:

9.4.1.1. such Program Background Information is necessary to or useful in the Program, with the Participant in possession of the information determining whether it is "necessary to" or "useful in" the Program;

9.4.1.2. such Program Background Information may be made available without incurring liability to holders of proprietary rights; and

9.4.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Participant.

9.4.2. Use. Government Program Background Information disclosed by one Participant to the other may be used without charge by or on behalf of the other Participant for Program purposes only.

9.4.2.1. Government Program Background Information subject to special restrictions on disclosure and use as provided for in the Project Security Instruction and Classification Guide will only be used on a case-by-case basis as determined by the furnishing Participant.

9.4.2.2. In all cases, however, the furnishing Participant will retain all its rights with respect to such Government Program Background Information.

9.5. Contractor Program Foreground Information

9.5.1. Disclosure: Program Foreground Information, generated and delivered by Contractors will be disclosed without charge to both Participants.

9.5.2. Use: Each Participant may use or have used on its behalf without charge for Defense Purposes all Contractor Program Foreground Information generated and delivered by Contractors of either Participant. The Participant whose Contractors generate and deliver Contractor Program Foreground Information will also retain rights of use thereto in accordance with the applicable Contract(s). If a Participant intends to use any Contractor Program Foreground Information in a sale or other transfer to a Third Party, the provisions of Section XIII (Third Party Sales and Transfers) of this MOU will also apply. The Participants will consider acquiring the legal rights to use Contractor Program Foreground Information in a sale.

9.6. Contractor Program Background Information

9.6.1. Disclosure: Any relevant Program Background Information (including information subject to proprietary rights) which is or has been generated outside of this MOU and delivered by Contractors of one Participant will be made available to the other Participant provided the following provisions are met:

9.6.1.1. such Program Background Information is necessary to or useful in the Program, with the Participant in possession of the information determining whether it is "necessary to" or "useful in" the Program;

9.6.1.2. such Program Background Information may be made available without incurring liability to holders of proprietary rights; and

9.6.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Participant.

9.6.2. Use. Contractor Program Background Information disclosed by one Participant to the other may be used without charge by or on behalf of the other Participant for Program purposes only and may be subject to further restrictions by holders of proprietary rights.

9.6.2.1. Contractor Program Background Information subject to special restrictions on disclosure and use as provided for in the Project Security Instruction and Classification Guide will only be used on a case-by-case basis as determined by the furnishing Participant.

9.6.2.2. In all cases, however, the furnishing Participant will retain all its rights with respect to such Contractor Program Background Information.

9.7. Proprietary Program Information

- 9.7.1. All Program Information subject to proprietary interests will be identified and marked, and it will be handled as Controlled Unclassified Information.**
- 9.7.2. The provisions of the NATO Agreement on the Communication of Technical Information for Defence Purposes, done at Brussels on 19 October 1970, and the Implementing Procedures for the NATO Agreement on the Communication of Technical Information for Defence Purposes, approved by the North Atlantic Council on 1 January 1971, will apply to proprietary technical Program Information related to this MOU.**

9.8. Patents

- 9.8.1. Each Participant will include in all its Contracts a provision governing the disposition of rights in regard to Program Inventions and patent rights relating thereto, which either;**
 - 9.8.1.1. Provides that the Participant will hold title to all Program Inventions together with the right to make patent application for the same, free of encumbrance from the Contractor; or**
 - 9.8.1.2. Provides that the Contractor will hold title (or may elect to retain title) for Program Inventions together with the right to make patent applications for the same, while securing for the Participant a license for the Program Inventions, and any patents therefore, on terms in compliance with the provisions of paragraph 9.8.2 below.**
- 9.8.2. In the event that a Contractor holds the title (or elects to retain title) for a Program Invention, the Contracting Participant will secure for both Participants non-exclusive, irrevocable, royalty-free licenses under all patents secured for the invention, to practice or have practiced the patented Program Invention for Defense Purposes throughout the world.**
- 9.8.3. Where a Participant has or can secure the right to file a patent application with regard to a Program Invention, that Participant will consult the other Participant regarding the filing of such patent application. If a Participant, having filed or caused to be filed a patent application in the country of the other Participant, decides to stop prosecution of the application, that Participant will notify the other Participant of that decision and permit the other Participant to continue the prosecution.**
- 9.8.4. Each Participant will be furnished with copies of the patent applications filed and patents granted with regard to Program Inventions.**
- 9.8.5. Each Participant will grant to the other Participant a non-exclusive, irrevocable, royalty-free license under its patents for Program Inventions, to practice or have practiced the patented Program Invention for Defense Purposes throughout the world.**
- 9.8.6. Patent applications which contain Classified Information, to be filed under this MOU, will be protected and safeguarded in accordance with the requirements contained in the NATO Agreement for the Mutual Safeguarding of Secrecy of Inventions Relating to Defense and for which Applications for Patents have been Made, signed on 21 September 1960, and its Implementing Procedures.**

SECTION X

CONTROLLED UNCLASSIFIED INFORMATION

10.1. Except as otherwise provided in this MOU or as authorized in writing by the originating Participant, Controlled Unclassified Information provided or generated pursuant to this MOU will be controlled as follows:

- 10.1.1. Such information will be used only for the purposes authorized for use of Program Information as specified in Section IX (Disclosure and Use of Program Information).
- 10.1.2. Access to such information will be limited to personnel whose access is necessary for the permitted use under subparagraph 10.1.1. and will be subject to the provisions of Section XIII (Third Party Sales and Transfers).
- 10.1.3. Each Participant will take all lawful steps, which may include national classification, available to it to keep such information free from further disclosure (including requests under any legislative provisions), except as provided in subparagraph 10.1.2., unless the originating Participant consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the information may have to be further disclosed under any legislative provision, immediate notification will be given to the originating Participant.

10.2. To assist in providing the appropriate controls, the originating Participant will ensure that Controlled Unclassified Information is appropriately marked. The Participants will decide, in advance and in writing, on the markings to be placed on the Controlled Unclassified Information. The appropriate markings will be defined in the Program Security Instruction.

10.3. Controlled Unclassified Information provided or generated pursuant to this MOU will be handled in a manner that ensures control as provided for in paragraph 10.1.

10.4. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Participants will ensure the Contractors are legally bound to control such information in accordance with the provisions of this Section.

SECTION XI

VISITS TO ESTABLISHMENTS

11.1. Each Participant will permit visits to its government establishments, agencies and laboratories, and Contractor industrial facilities by employees of the other Participant or by employees of the other Participant's Contractor(s), provided that the visit is authorized by both Participants and the employees have any necessary and appropriate security clearances and a need-to-know.

11.2. All visiting personnel will be required to comply with security regulations of the host Participant and the establishment to be visited. Any information disclosed or made available to visitors will be treated as if supplied to the Participant sponsoring the visiting personnel, and will be subject to the provisions of this MOU.

11.3. Requests for visits by personnel of one Participant to a facility of the other Participant will be coordinated through official channels, and will conform with the established visit procedures of the host country. Requests for visits will bear the name of the Program.

11.4. Lists of personnel of each Participant required to visit, on a continuing basis, facilities of the other Participant will be submitted through official channels in accordance with Recurring International Visit Procedures.

SECTION XII

SECURITY

12.1. All Classified Information or material provided or generated pursuant to this MOU will be stored, handled, transmitted, and safeguarded in accordance with the General Security Agreement between the United Kingdom of Great Britain and Northern Ireland and the United States of America, of 14 April 1961, amended 5 July and 19 December 1983, and including the Industrial Security Annex thereto, of 18 April 1984, amended 23 April 1988.

12.2. Classified Information and material will be transferred only through official government-to-government channels or through channels approved by the Designated Security Authorities (DSAs) of the Participants. Such information and material will bear the level of classification, denote the country of origin, the conditions of release, and the fact that the information relates to this MOU.

12.3. Each Participant will take all lawful steps available to it to ensure that information provided or generated pursuant to this MOU is protected from further disclosure, except as permitted by paragraph 12.9., unless the other Participant consents to such disclosure. Accordingly, each Participant will ensure that:

12.3.1. The recipient will not release the Classified Information to any government, national, organization, or other entity of a Third Party without the prior written consent of the originating Participant in accordance with the procedures detailed in Section XIII (Third Party Sales and Transfers).

12.3.2. The recipient will not use the Classified Information for other than the purposes provided for in this MOU.

12.3.3. The recipient will comply with any distribution and access restrictions on information that is provided under this MOU.

12.4. Each Participant's DSA will investigate all cases in which it is known or where there are grounds for suspecting that Classified Information or material provided or generated pursuant to this MOU has been lost or disclosed to unauthorized persons. Each Participant also will promptly and fully inform the other Participant's DSA of the known details of any such occurrences and will provide updates as required on the investigation and will provide final results of the investigation and of the corrective actions taken to preclude recurrences.

12.5. The DSA of the Participant in which a classified Contract is awarded will assume responsibility for administering within its territory security measures for the protection of the Classified Information, in accordance with its laws and regulations. Prior to the release to a Contractor, prospective Contractor, or sub-Contractors of any Classified Information received under this MOU, the DSAs will:

12.5.1. Ensure that such Contractor, prospective Contractor or sub-Contractors and their facilities have the capability to protect the Classified Information adequately.

12.5.2. Grant a security clearance to the facilities, if appropriate.

12.5.3. Grant a security clearance for all personnel whose duties require access to Classified Information, if appropriate.

12.5.4. Ensure that all persons having access to the Classified Information are informed of their responsibilities to protect the Classified Information in accordance with national security laws and regulations, and the provisions of this MOU.

12.5.5. Carry out periodic security inspections of cleared facilities to ensure that the Classified Information is properly protected.

12.5.6. Ensure that access to the Classified Information is limited to those persons who have a need-to-know for purposes of the MOU.

12.6. A Program Security Instruction and Classification Guide for the Program will be prepared by the JPO within three months after this MOU enters into effect and forwarded for approval by the appropriate DSAs. The Program Security Instruction and Classification Guide will describe the methods by which Program Background Information, Program Foreground Information and material will be classified, marked, used, transmitted, and safeguarded and will be applicable to all government and Contractor personnel participating in the Program. The Instruction and Guide will be subject to regular review and revision whenever this is appropriate.

12.7. The Participants recognize that certain Classified Program Information, both Foreground and Background, may be subject to special restrictions which will be established in accordance with the Program Security Instruction.

12.8. Contractors, prospective Contractors, or subcontractors which are determined by DSAs to be under financial, administrative, policy or management control of nationals or entities of a Third Party, may participate in a Contract or subcontract requiring access to Classified Information provided or generated pursuant to this MOU only when enforceable measures are in effect to ensure that nationals or other entities of a Third Party will not have access to Classified Information. If enforceable measures are not in effect to preclude access by nationals or other entities of a Third Party, the other Participant will be consulted for approval prior to permitting such access.

12.9. For any facility wherein Classified Information or material is to be used, the responsible Participant or Contractor will approve the appointment of a person or persons to exercise effectively the responsibilities for safeguarding at such facility the information or material pertaining to this MOU. These officials will be responsible for limiting access to Classified Information or material involved in this MOU to those persons who have been properly approved for access and have a need-to-know.

12.10. Each Participant will ensure that access to the Classified Information is limited to those persons who possess requisite security clearances and have a specific need for access to the information in order to participate in the Program.

12.11. Information or material provided or generated pursuant to this MOU may be classified as high as Secret. The existence of this MOU is Unclassified and the contents are Unclassified.

SECTION XIII

THIRD PARTY SALES AND TRANSFERS

13.1. To the extent that it has the right to do so, each Participant will retain the right to sell, transfer title to, disclose, or transfer possession of Program Foreground Information which is:

13.1.1. generated solely by either that Participant or that Participant's Contractors in the performance of the Program under Section III (Scope of Work); and

13.1.2. which does not include any Program Background Information of the other Participant.

13.2. In the event questions arise as to whether the Program Foreground Information that a Participant intends to sell, transfer title to, disclose, or transfer to a Third Party is within the scope of paragraph 13.1., the matter will be brought to the immediate attention of the SC. The Participants will resolve the matter prior to any sale or other transfer of such Program Foreground Information to a Third Party.

13.3. Except to the extent permitted in paragraph 13.1., the Participants will not sell, transfer title to, disclose, or transfer possession of Program Foreground Information or jointly acquired Program Equipment or anything produced through use of the Foreground Information to any Third Party without the prior written consent of the other Participant. Furthermore, neither Participant will permit any such sale, disclosure, or transfer, including by the owner, without the prior written consent of the other Participant. Such consent will not be given unless the government of the intended recipient consents in writing with the Participants that it will:

13.3.1. not retransfer, or permit the further retransfer of, any equipment or information provided; and

13.3.2. use, or permit the use of, the equipment or information provided only for the purposes specified by the Participants.

13.4. A Participant will not sell, transfer title to, disclose, or transfer possession of Program Equipment or Program Background Information provided by the other Participant to any Third Party without the prior written consent of the Participant which provided such equipment or information. The providing Participant will be solely responsible for authorizing such transfers and, as applicable, specifying the methods and provisions for implementing such transfers.

13.5. The Participants anticipate that other nations may wish to buy equipment ultimately derived from the results of this MOU. Both Participants recognize the advantages of their respective nations' industries working together to produce such equipment for sale to other nations.

13.6. Sales and other transfers of equipment developed or Program Foreground Information generated under this MOU may attract a levy to be shared between the Participants. Prior to any such sale or transfer, the amounts of any levy and the procedures for assessing and distributing such levy will be mutually determined by both Participants consistent with the laws and regulations of each Participant. Either Participant may reduce the assessment of its share of the levy.

13.7. Specific details of maximum levy rates will be specified in the Contracts for each phase of the Program.

SECTION XIV

LIABILITY AND CLAIMS

14.1. Claims arising under this MOU will be dealt with under paragraph 1 of the Agreement Concerning Defense Cooperation Arrangements of 27 May 1993. Any cost arising under paragraph 1(b)(ii) will be shared in proportion to the financial contributions to the Program by the Participants.

SECTION XV

PARTICIPATION OF ADDITIONAL NATIONS

15.1. It is recognized that other national defense organizations may wish to join the Program.

15.2. Mutual consent of the Participants will be required to conduct discussions with potential additional Participants. The Participants will discuss the arrangements under which another Participant might join, including the furnishing of releasable Program Information for evaluation prior to joining. If the disclosure of Program Information is necessary to conduct discussions, such disclosure will be in accordance with Section IX (Disclosure and Use of Program Information), Section X (Controlled Unclassified Information) and Section XIII (Third Party Sales and Transfers).

15.3. The Participants will jointly formulate the provisions under which additional Participants might join. The addition of new Participants to the Program will require amendment of this MOU by the Participants to incorporate necessary multilateral provisions.

SECTION XVI

CUSTOMS DUTIES, TAXES, AND SIMILAR CHARGES

16.1. Customs duties, import and export taxes, and similar charges will be administered in accordance with each Participant's respective laws and regulations. Insofar as existing national laws and regulations permit, the Participants will endeavor to ensure that such readily identifiable duties, taxes and similar charges, as well as quantitative or other restrictions on imports and exports, are not imposed in connection with work carried out under this Program.

16.2. Each Participant will use its best efforts to ensure that customs duties, import and export taxes, and similar charges are administered in a manner favorable to the efficient and economical conduct of the work. If customs duties, import and export taxes, or other similar charges are levied during the PD/ATD or EMD/FD phases, the Participant in whose country they are levied will bear such costs as a cost to that Participant over and above that Participant's share of its costs under this MOU.

SECTION XVII

SETTLEMENT OF DISPUTES

17.1. Disputes between the Participants arising under or relating to this MOU will be resolved only by consultation between the Participants and will not be referred to a national court, to an international tribunal, or to any other person or entity for settlement.

SECTION XVIII

AMENDMENT, TERMINATION, ENTRY INTO EFFECT, AND DURATION

18.1. All activities of the Participants under this MOU will be carried out in accordance with their national laws and the responsibilities of the Participants will be subject to the availability of appropriated funds for such purposes.

18.2. In the event of a conflict between a Section of this MOU and any Annex to this MOU, the Section will control.

18.3. Except as otherwise provided, this MOU may be amended by the mutual written consent of the Participants. Annex A (Program Plan), Annex B (Financial Matters), and Annex D (Software) of this MOU may be amended by the written approval of the SC.

18.4. This MOU may be terminated at any time upon the mutual written consent of the Participants. In the event both Participants consent to terminate this MOU, the Participants will consult prior to the date of termination to ensure termination on the most economical and equitable provisions.

18.5. Either Participant may terminate this MOU upon 180 days written notification to the other Participant. Such notice will be the subject of immediate consultation by the SC to decide upon the appropriate course of action. In the event of such termination, the following rules apply:

18.5.1. The terminating Participant will continue participation, financial or otherwise, up to the effective date of termination.

18.5.2. The terminating Participant will pay all Contract modification or termination costs that would not otherwise have been incurred but for the decision to terminate. However, the total contribution of the terminating Participant, including termination costs, will in no event exceed the amount the terminating Participant would have contributed had it not terminated this MOU.

18.5.3. The terminating Participant will pay its share of the jointly funded costs expended under this MOU in accordance with the cost share provisions.

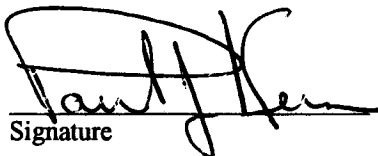
18.5.4. All Program Information and rights and benefits therein received under the provisions of this MOU prior to the termination will be retained by the Participants, subject to the provisions of this MOU, sufficient to allow either Participant to complete the Program. No warranty is implied with regard to sufficiency or adequacy of Program Information provided prior to termination.

18.6. The respective rights, benefits, and responsibilities of the Participants regarding Section VIII (Program Equipment), Section IX (Disclosure and Use of Program Information), Section X (Controlled Unclassified Information), Section XII (Security), Section XIII (Third Party Sales and Transfers), Section XIV (Liability and Claims), Section XVIII (Amendment, Termination, Entry into Effect, and Duration), will continue notwithstanding termination or expiration of this MOU. The respective rights and benefits of the Participants under Section IX (Disclosure and Use of Program Information) will only extend to Program Information delivered to Participants during the term of this MOU.

18.7. This MOU, which consists of the Introduction, 18 Sections and 4 Annexes, will enter into effect upon signature by both Participants and will remain in effect for 25 years. It may be extended by the mutual written consent of the Participants.

The foregoing represents the understandings reached between the Secretary of Defense on behalf of the Department of Defense of the United States of America and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland upon the matters referred to therein. Signed in duplicate in English by authorized representatives.

FOR THE SECRETARY OF DEFENSE ON
BEHALF OF THE DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA:



Signature

LTG Paul J. Kern

Name

Military Deputy to ASA (RDA)

Title

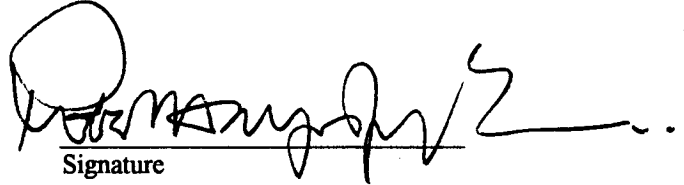
26 Feb 1998

Date

Washington, D.C.

Location

FOR THE SECRETARY OF STATE FOR
DEFENCE OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND:



Signature

LTG Sir Robert Hayman-Joyce KCB CBE
DL

Name

Deputy Chief of Defence
Procurement (Operations)

Title

7 July 1998

Date

Abbey Wood, Bristol

Location

ANNEX A PROGRAM PLAN

1. Program phases. The Program will comprise the following phases:

Project Definition/Advanced Technology Demonstrator (PD/ATD)

Engineering and Manufacturing Development /Full Development (EMD/FD)

Production

Follow on Support

The schedule to In Service Date/First Unit Equipped (ISD/FUE) is attached at Appendix 1 to this Annex.

2. Acquisition Strategy.

2.1. The Participants will issue an Invitation to Tender for the PD/ATD phase. Following a joint source selection process, and subject to the advice of the Source Selection Authority two Contracts will be let for a competitive PD/ATD which will seek two proposals for the EMD/FD phase. These proposals will each include a detailed design; emphasis will be placed on achieving state of the art performance, on operating and support costs, and on growth potential, within an affordable unit production cost. The Contractors' designs will be supported by a range of rigs and demonstrators, including a system level integrated demonstrator.

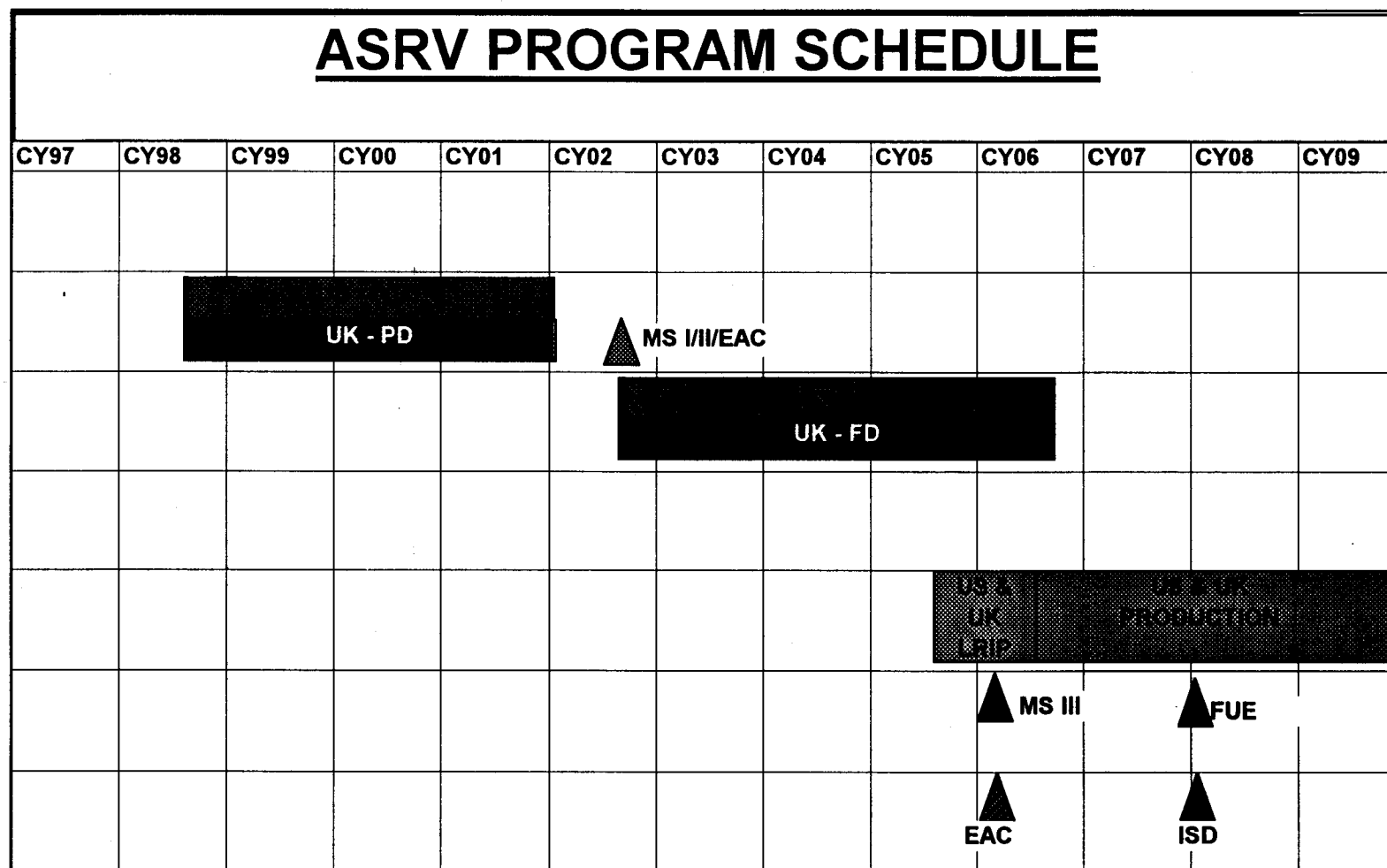
2.2. Subject to the mutual consent of the Participants to continue with the joint Program and following a further joint source selection process the Source Selection Authority will advise on the selection of a single consortium for the EMD/FD Phase. Subject to satisfactory completion of this phase, Production would be authorised.

2.3. It is the intention of both Participants to consider during the PD/ATD and EMD/FD phases contractor based solutions for support of the system in service.

3. PD/ATD phase Milestones

Invitation to Tender	Mar 98
Tender returns due	May 98
Completion of SSEB	Aug 98
Award of PD/ATD Contracts	Sep 98
Pricing strategy and contracting agency information for EMD/FD released to industry	Apr 00
EMD/FD proposals from industry due	Apr 02
Completion of SSEB	Aug 02
MS I/II and EAC approval for EMD/FD	Oct 02

4. **Record of Program Background Information.** A record of Government and Contractor Program Background Information brought to the program prior to signature of this MOU is maintained by the JPO. The PM and DPM will update this record every six months to include any additional Program Background Information exchanged under this MOU. The PM and DPM must also record, with assistance from prime contractors, when any such Program Background Information is committed to contractors' designs.



ANNEX B

FINANCIAL MATTERS

1. The estimated contributions of the Participants in the PD/ATD phase of the program are as follows:

UK Financial Years (1 Apr - 31 Mar)

	FY98/99	FY99/00	FY00/01	FY01/02	Totals
<u>Contractual</u>					
United Kingdom (£M)	7.8	21.5	27.9	28.8	86.0
United States (\$M)	16.4	32.9	52.9	34.4	136.6
<u>Overhead & Admin</u>					
United Kingdom (£M)	3.0	3.3	3.2	2.4	11.9
United States (\$M)	3.5	4.3	4.4	3.8	16.0

2. The estimated contributions of the Participants in the EMD/FD phase of the program are as follows:

	US (\$M)	UK (£M)
<u>Contractual Cost</u>	298.8	186.5
<u>Operating Costs</u>	46.8	21.1
	345.6	207.6

(Note: Figures are in UK September 1997 economic condition for the £ and FY98 constant US\$. To allow a meaningful comparison with the US Dollar figures, all UK figures shown are exclusive of Value Added Tax.)

3. The following provisions will apply to the PD/ATD.

3.1. The UK Pound Sterling will be the reference currency for the PD/ATD phase of the Program and the fiscal year will be the UK financial year. The reference currency exchange rate for the purpose of determining the maximum costs for the PD/ATD phase of the Program is 1 UK Pound Sterling = U.S. \$ 1.6.

3.2. Bids will be sought from Contractors in US dollars for unique US items; in pounds sterling for unique UK items; and equally in pounds sterling and US dollars for common US/UK items. Unique US items will be priced and paid to Contractors in US dollars. Unique UK items will be priced and paid to Contractors in pounds sterling. Common US/UK items will be priced and paid to Contractors equally in pounds sterling and US dollars. These prices will be firm and not subject to exchange rate fluctuation. The exchange rate will be advised by the Contractor in his bid and approved by the SC. All US contributions will be paid to the UK in US dollars.

3.3. Contractor invoices received by the JPO which are for common cost items will be paid against the approved financial schedule by drawing equally against US/UK funds. Invoices for items unique to one Participant will be met entirely from the national funds of that Participant. Responsibility for authorizing all payments to Contractors will rest with the PM and DPM.

3.4. The JPO will prepare a Contract Financial Contribution Schedule (FCS) based upon anticipated Contract payments. The schedule will reflect the requirement for contributions from the US to be received prior to payment being made to the Contractor(s). The schedule will reflect actual Contract prices and payment plans; and will show separately those items to be paid to the Contractor(s) in US dollars; those to be paid in pounds sterling; and those to be paid in equal shares of US dollars and pounds sterling.

3.5. Prior to any UK contractual action which will result in a financial commitment of US/UK funds, the PM and the DPM will decide jointly in writing on the definitions of and amount of common and unique costs associated with such contractual action.

3.6. The US contribution towards Contract payments will be made to the UK on or before the dates on which payment is due. The amount of the US contribution advanced will not exceed the amount necessary to fulfill the US share of expenses for a current US fiscal quarter. Any additional Contract costs resulting from late payments will be borne by the Participant responsible for the delay.

3.7. The following procedures will be adopted by the UK for calling forward US contributions both for common US/UK items and for unique US items:

3.7.1. Requests for funding will be submitted to Project Manager, Future Scout and Cavalry System, US Army TACOM, AMSTRA-TR-FSCS, Warren, MI 48397-5000 in accordance with the financial schedule. Requests will be submitted at least 30 days in advance of the due date set out in the financial schedule. All remittances to the UK will be made in US dollars.

3.7.2. The US will ensure that funds are made available on or before the due date. Upon request, funds should be remitted to the UK

3.7.3. The UK will hold the US dollar contribution in a interest bearing account prior to payment being made to the Contractor(s). The interest accumulated on this account will be remitted to the US.

3.8. The JPO will maintain accurate and up-to-date records, both for common and unique national elements of the ASRV Contract(s), in formats to be decided by the SC. Financial status reports will be forwarded to each Participant within four weeks of the end of each calendar quarter. The JPO will keep full and complete records of all requisitions issued, work performed, obligations and commitments incurred by the Contracting Agency, funds received, and all payments certified on behalf of the Participants. These will be subject to periodic audit in accordance with Section V (Financial Provisions).

3.9. All official records for the Program will be maintained using the UK Financial Year. US records prepared or maintained for US use within the JPO may also use the US Government Fiscal Year, which runs from October to September. However, all periodic reports will be due on the UK FY basis (ie. after 31 March for annual reports).

3.10. Revisions or amendments to this document will be issued as necessary subject to the approval of the SC.

4. This Annex will be revised and updated by the JPO for the Participants prior to proceeding together with each phase. The revision will include the detailed costing of the work to be accomplished, a preliminary financial contributions schedule and an estimated maximum cost for that phase, and an outline cost for all subsequent phases.

ANNEX C

ASSIGNMENT OF ASRV PROGRAM PERSONNEL

1.0. Definitions.

In addition to the definitions in Section I (Definitions) of this MOU the following definitions will also apply:

1.1. "Host Organization" means the U.S. Army Tank-automotive and Armaments Command (TACOM) and the Procurement Executive (PE) to which ASRV Program Personnel are assigned for duty pursuant to the ASRV MOU.

1.2. "Host Participant" means the Department of Defense or Ministry of Defence (DoD/MoD) to which the Host Organization belongs.

1.3. "ASRV Program Personnel" means military or civilian employees of the Parent Organization of one Participant assigned to the Host Organization of the other who perform professional, administrative, contracting, logistics, financial, planning or other support functions in furtherance of the ASRV Program.

1.4. "Parent Organization" means the US Army and MoD departments and agencies to which ASRV Program Personnel belong.

1.5. "Parent Participant" means the DoD/MoD to which the Parent Organization belongs.

2.0. Purpose and Scope.

2.1. This Annex establishes the provision by which the Participants will assign ASRV Program Personnel in support of the ASRV Program from the other Participant. During the term of the ASRV MOU, each Participant will be permitted to assign military or civilian employees of its DoD/MoD to serve as ASRV Program Personnel to the JPO/PMSO run by the other Participant in accordance with the terms of this Annex. Commencement of such an assignment will be subject to any requirements that may be imposed by the other Participant or its government regarding approval of ASRV Program Personnel. An individual may serve for any length of time up to the completion or termination of the ASRV MOU.

2.2. ASRV Program Personnel will not act in a liaison capacity. ASRV Program Personnel will perform duties as mutually determined by the PM and DPM.

3.0. Financial Arrangements

3.1. The Parent Participant's responsibility will include all costs and expenses of ASRV Program Personnel, including, but not limited to:

3.1.1. All pay and allowances.

3.1.2. Travel to and from the country of the Host Participant, except for travel pursuant to paragraph 3.2.

3.1.3. All temporary duty costs, including travel costs, when such duty is carried out at the request of the Parent Participant.

3.1.4. Compensation for loss of, or damage to, the personal property of ASRV Program Personnel, or the personal property of ASRV Program Personnel dependents.

3.1.5. The movement of dependents and the household effects of ASRV Program Personnel.

3.1.6. Preparation and shipment of remains and funeral expenses in the event of the death of ASRV Program Personnel or their dependents.

3.1.7. All expenses in connection with the return of ASRV Program Personnel whose assignment has been terminated, along with his or her dependents.

3.2. The Host Participant will be responsible for the following:

3.2.1. Travel and subsistence costs in connection with the performance of any duty carried out pursuant to a requirement of the Host Participant.

3.2.2. Costs incurred as a result of a change in location of work ordered by the Host Participant during the period of exchange.

3.3. The Host Participant will not charge for the use of facilities and equipment necessary for the performance of tasks assigned to ASRV Program Personnel.

3.4. The Host Participant will not provide any supplies or services related to those costs that, pursuant to paragraph 3.1, are the responsibility of the Parent Participant. Accordingly, the Parent Participant will make arrangements to defray such costs directly through its personnel, rather than through reimbursement to the Host Participant.

4.0. Security.

4.1. The Participants will establish the maximum level of security clearance required, if any, to permit ASRV Program Personnel to have access to Classified Information and work areas in accordance with the Program Security Instruction and Classification Guide. Access to Classified Information and facilities will be consistent with, and limited by, Section III (Scope of Work) of this MOU and will be kept to the minimum required to accomplish the work assignments.

4.2. Each Participant will cause security assurances to be filed, through the British Embassy in Washington, D.C., in the case of United Kingdom personnel, and through the U.S. Embassy in London, U.K. in the case of United States personnel, stating the security clearances for the ASRV Program Personnel being assigned. The security assurances will be prepared and forwarded through prescribed channels in compliance with established Host Participant procedures.

4.3. The Host Organization and the Parent Organization will ensure that assigned ASRV Program Personnel are fully cognizant of applicable laws and regulations concerning the protection of proprietary information (such as patents, copyrights, know-how, and trade secrets), Classified Information and Controlled Unclassified Information to which access might be gained under this Program both during and after termination of an assignment. Prior to taking up assigned duties, ASRV Program Personnel will be required to sign the certification at Appendix A.

4.4. ASRV Program Personnel will at all times be required to comply with the security laws, regulations and procedures of the government of the Host Participant. Any violation of security procedures by ASRV Program Personnel during their assignment will be reported to the Parent Participant for appropriate action. ASRV Program Personnel committing willful violations of security laws, regulations, or procedures during their assignments will be withdrawn from the Program with a view toward appropriate administrative or disciplinary action by the Parent Participant.

4.5. All Classified Information made available to the ASRV Program Personnel will be considered as Classified Information furnished to the Parent Participant and will be subject to all provisions and safeguards provided for in Section XII (Security) and Annex C (Program Security Instruction and Classification Guide).

4.6. ASRV Program Personnel will not take custody of Classified Information or Controlled Unclassified Information in tangible form (for example, documents or electronic files) unless approved by the ASRV Program Office and as authorized by the Parent Participant on a case by case basis..

5.0. Technical and Administrative Matters.

5.1. To the extent authorized by the laws and regulations of the government of the Host Participant, the Host Organization will provide such administrative support as is necessary for ASRV Program Personnel to perform their assigned tasks.

5.2. Consistent with the laws and regulations of the government of the Host Participant, ASRV Program Personnel assigned under this MOU will be subject to the same restrictions, conditions, and privileges as Host Participant personnel of comparable rank and in comparable assignments. Further, to the extent authorized by the laws and regulations of the government of the Host Participant, ASRV Program Personnel and their authorized dependents will be accorded on a reciprocal basis:

5.2.1. Exemption from any tax by the government of the Host Participant upon income received from the government of the Parent Participant.

5.2.2. Exemption from any customs and import duties or similar charges levied on items entering the country of the Host Participant for their official or personal use, including their baggage, household effects, and private motor vehicles. The foregoing will not in any way limit privileges set forth elsewhere in this MOU, or other privileges granted by the laws and regulations of the government of the Host Participant.

5.3. ASRV Program Personnel and their dependents will be informed by the Host Organization about applicable laws, orders, regulations, and customs and they will be required to comply with them. ASRV Program Personnel and their dependents also will be briefed by Host Organization personnel regarding their specific entitlements, privileges, and obligations upon their arrival in the country of the Host Organization.

5.4. ASRV Program Personnel may observe the holiday schedule of either the Parent Participant or the Host Participant as mutually acceptable.

5.5. The Participants will determine working hours for ASRV Program Personnel that are consistent with the customs and requirements of both Participants. ASRV Program Personnel will have performance evaluations rendered in accordance with the applicable Parent Participant regulations.

5.6. ASRV Program Personnel committing an offense under the laws of the government of either the Parent Participant or the Host Participant may be withdrawn from this Program with a view toward further administrative or disciplinary action by the Parent Participant. Disciplinary action, however, will not be taken by the Host Participant against ASRV Program Personnel and ASRV Program Personnel will not exercise disciplinary powers over personnel of the Host Participant. The Participants will cooperate when legally possible in carrying out administrative or disciplinary action by the Parent Participant against its ASRV Program Personnel.

5.7. Any medical and dental care that may be provided to ASRV Program Personnel and their dependents at the Host Participant medical facilities, will be subject to the requirements of the laws and regulations of the government of the Host Participant, including reimbursement when required by such laws and regulations.

5.8. In no case will ASRV Program Personnel be assigned to positions which would require exercise of command or be assigned to other positions that would require them to exercise responsibilities that are reserved by law or regulation to an officer or employee of the U.S. Government.

5.9. ASRV Program Personnel will not be placed on duty or in positions in areas of political sensitivity where their presence would jeopardize the interests of the Parent Participant, or where, in the normal course of their duty, they may become involved in activities which may embarrass the Parent Participant.

5.10. The Host Participant will not deploy ASRV Program Personnel in non-direct hostility situations, such as UN peacekeeping or multi-national operations, without Parent Participant approval. Additionally, ASRV Program Personnel will not be deployed to a third country without Parent Participant approval.

5.11. The Host Participant will not place ASRV Program Personnel in duty assignments in which direct hostilities with forces of third states are likely. Should a unit in which ASRV Program Personnel are assigned become involved in hostilities unexpectedly, ASRV Program Personnel assigned to the unit will not be involved in the hostilities without authorization from the Parent Participant. ASRV Program Personnel approved by both the Parent Participant and the Host Participant for involvement in hostilities will be given clear guidance on the Host Participant's interpretation of laws of war, to include the rules of engagement.

5.12. Purchasing and patronage privileges at military commissaries, exchanges, theaters and clubs will be extended to ASRV Program Personnel and their dependents on the same basis as equivalent personnel of the Host Participant. This provision will not, however, limit privileges set forth elsewhere in this MOU or other privileges granted by the Host Participant, at its discretion, with the consent of the Parent Participant.

5.13. ASRV Program Personnel will be granted leave according to their entitlements under the regulations of the Parent Organization, subject to the approval of the appropriate authorities of the Host Organization.

5.14. ASRV Program Personnel will be required to comply with the dress regulations of the Parent Organization and will also wear such identification as may be necessary to identify the ASRV Program Personnel's nationality, rank and status. The order of dress for any occasion will be that which most nearly conforms to the order for the Host Organization with which they are serving. Customs of the Host Organization will be observed with respect to wearing of civilian clothes.

5.15. Consistent with the laws and regulations of the government of the Host Participant, and upon conditions of reciprocity, the Host Organization will provide, if available, housing and messing facilities for ASRV Program Personnel and their dependents on the same basis and priority as for its own personnel. ASRV Program Personnel will pay messing and housing charges to the same extent as personnel of the Host Organization. At locations where facilities are not provided by the Host Organization for its own personnel, the Parent Organization will make suitable arrangements for ASRV Program Personnel.

6.0. ASRV Program Personnel and those dependents accompanying them, must obtain motor vehicle liability insurance coverage in accordance with applicable laws and regulations of the government of the Host Participant, or its political subdivision, where they are located. In case of claims involving the use of private motor vehicles, the first recourse will be against such insurance.

7.0. The NATO Status of Forces Agreement pertaining to rights and privileges of military and civilian personnel while in the country of the Host Participant will apply to ASRV Program Personnel and their dependents.

Appendix A
CERTIFICATE OF CONDITIONS AND RESPONSIBILITIES

I understand and acknowledge that I have been accepted for assignment to (Name and location of organization to which assigned) pursuant to the Memorandum of Understanding between the Secretary of Defense on behalf of the Department of Defense of the United States of America and the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland concerning Cooperation in the Development, Production and Follow on Support of an Armored Scout and Reconnaissance Vehicle System. In connection with this assignment, I further understand, acknowledge, and certify that I will comply with the following conditions and responsibilities:

1. The purpose of the assignment is to support the ASRV Program. There will be no access to information except as required to perform the duties to which I am assigned, as determined by the PM and/or DPM.
2. I will perform only functions which are properly assigned to me.
3. All information to which I may have access during this assignment will be treated as information provided to my government in confidence and will not be further released or disclosed by me to any other person, firm, organization or government without the prior written authorization of the Host Participant.
4. When dealing with individuals outside of my immediate office of assignment on official matters, I will inform such individuals that I am a foreign exchange person.
5. I have been briefed on, understand, and will comply with all applicable security regulations of the Host Participant and the Host Organization.
6. I will immediately report to my designated supervisor all attempts to obtain, without proper authorization, classified, restricted, proprietary or controlled unclassified information to which I may have access as a result of this assignment.

(Signature)

(Typed Name)

(Rank/Title)

(Date)

ANNEX D

SOFTWARE

1. EMD/FD/Production Computer Software.

Each Participant will, at its discretion, maintain a software support center to allow updating/upgrading of the ASRV system. Both Participants will be provided EMD/FD/Production Computer Software, to include all source code with appropriate documentation, required as a baseline by the Contractor(s).

2. EMD/FD/Production Computer Software Documentation.

Each Participant will, at its discretion, be provided all EMD/FD/Production Computer Software Documentation required for updating/upgrading of the ASRV system. Each Participant will also be provided access to ASRV Program EMD/FD/Production Computer Software documentation via on-site software documentation libraries at the US and UK Contractor/Government software support activities subject to the security restrictions of the installation and in accordance with the provisions of Annex C (Program Security Instruction and Classification Guide).

3. Computer Software Support

All ASRV Program computer software support activities will be conducted at Contractor/Government software support facilities and will be governed by existing US/UK software maintenance procedures.